



GOBIERNO DE PUERTO RICO
DEPARTAMENTO DE DESARROLLO ECONÓMICO Y COMERCIO

Energy Policy Program

REQUEST FOR QUALIFICATION (RFQ)

TO PRE-QUALIFY ESCO'S FOR

AS-NEEDED ENERGY SAVINGS PERFORMANCE CONTRACTING SERVICES

RFQ-DDEC-EPP-2022-01

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Table of Contents

1.0	<i>Overview and Background.....</i>	3
3.0	<i>Scope of Work.....</i>	10
4.0	<i>Disclaimers.....</i>	11
5.0	<i>Confidentiality of Statements of Qualifications.....</i>	13

**REQUEST FOR QUALIFICATIONS TO PRE-QUALIFY ESCOS
FOR AS-NEEDED ENERGY SAVINGS PERFORMANCE
CONTRACTING SERVICES**

1.0 Overview and Background

The Puerto Rico Energy Policy Program (EPP) is the lead entity in charge of implementing the public policy set forth in Act No. 19 of January 17, 2012, known as the Energy Savings Performance Contracts Act (Act 19-2012), and Act No. 57 of May 27, 2014, as amended, known as the Energy Transformation and Relief Act (Act 57-2014), which promotes the concept of Energy Savings Performance Contracts (ESPC) as a cost-effective measure for reducing energy and water consumption and efficiency in government owned buildings and installations. Act 57-2014 was later amended by Act No. 141 of July 11, 2018, also known as Execution Act of the Reorganization Plan of the Department of Economic Development and Commerce of 2018 (Act 141-2018) (DEDC), which among other things created the Energy Policy Program (EPP) as part of the DEDC.

Through Act 19-2012, the Government of Puerto Rico adopted ESPCs as an indispensable tool for promoting efficient energy use. Government Units, which include the Executive, Legislative and Judicial Branch, must consider as their first option, the use of ESPCs as a contractual mechanism for achieving energy and water efficiency and conservation and promoting the integration of renewable energy generation alternatives. However if a Government Unit from the Executive or Judicial Branch determines not to continue with this process because it is burdensome or not cost effective, it must certify it so to the EPP and obtain an exemption from compliance with the provisions of Article 4.1(e) of Act 57-2014, as amended, from the Puerto Rico Energy Bureau.

The EPP through its Energy Savings Performance Contracting (ESPC) Program, seeks proposals from Energy Services Companies (ESCOs) to be pre-qualified for as-needed Energy Savings Performance Contracting services, including preliminary auditing and assessment services for government facilities within the Government of Puerto Rico. In this role, the ESCOs would become ‘Qualified Providers’ and provide services to Government Units, under the authority granted to EPP by the amended 19-2012 Act.

Puerto Rico’s monthly energy consumption average exceeds 1,000GWh with an average cost above the 30 cents. Additional detailed information is available at the following link: <https://www.indicadores.pr/dataset/generacion-consumo-costo-ingresos-y-clientes-del-sistema-electrico-de-puerto-rico/resource/8025f821-45c1-4c6a-b2f4-8d641cc03df1>

ESCOs qualified through this RFQ are eligible enter into a list of qualified ESCO providers to be kept by the EPP and then be eligible to provide services through this Program to the Government Units that may also choose to participate in the Program. The primary intent of this selection process is as follows:

- To increase the number of successful performance contracts state-wide, as a means to implement comprehensive energy-efficiency projects in buildings of all branches of the government of Puerto Rico.
- To provide Program participants the opportunity to procure services of qualified firms in a timely and cost-effective way.
- To ensure minimum qualifications of ESCOs to implement successful Energy Resiliency projects.
- To ensure fair and reasonable pricing for EPC services.
- To offer qualified firms the opportunity of equal access to work generated by the Program.

The Program provides a standardized process with clear direction and accountability for all participants in development, implementation, and measurement and verification of Energy Savings Performance Contracting projects by defining roles and responsibilities; formalizing process steps; establishing maximum cost schedules; providing standard contract documents; and establishing measurement and verification guidelines.

Potential ESPC Program participants include state agencies, authorities or political subdivisions, of the Government of Puerto Rico including, but not limited to, municipalities, any state supported institutions, educational institutions, public corporations or an agency composed of political subdivisions (namely, Government Units). Energy Savings Performance Contracting enables these participants to accomplish ESPCs using the appropriate financing options available to obtain desired results. Interested Government Units will sign a Memorandum of Understanding with EPP to follow program guidelines and will be directed to use the pre-qualified list to select an ESCO for their performance contracting project, using a recommended secondary selection process.

ESCOs will be pre-qualified by EPP to provide as-needed Energy Savings Performance Contracting services to participating Government Units. All sizes of companies are encouraged to submit statements of qualification for consideration. Pre-qualified ESCOs will be effective for a four year term subject to annual update of their files in EPP. Failure to do so will automatically eliminate the ESCO from the ESPC Program.

ESCOs that are selected under this RFQ are **not guaranteed** to be selected for any particular project and are not guaranteed any payment. Additionally, prequalification is not a prerequisite to be selected for design-build services under the Program. EPP is prequalifying vendors to expedite contracting, as deployment and final contracting decisions will be at the discretion of Program participants.

2.0 Statements of Qualification Submittal and Selection Process

2.1 Policies

- 2.1.1** This RFQ does not commit the Government of Puerto Rico and/or EPP to the award of a contract, or to pay any cost incurred in the preparation and submission of Statements of Qualifications (SOQ) in anticipation of a contract.
- 2.1.2** The Government of Puerto Rico and/or EPP reserves the right to reject partially or completely any or all SOQs and to disregard any informality and/or irregularity in the statements of qualifications when, in its opinion, the best interest of the Government of Puerto Rico will be served by such action. The Government of Puerto Rico and/or EPP reserves the right to reject partially or completely any or all SOQs on the basis of being unresponsive to these guidelines or for failure to disclose requested information.
- 2.1.3** No work is associated, or guaranteed, with the pre-qualification performed by EPP of an ESCO as participation by Government Units in the ESPC Program is voluntary.
- 2.1.4** The actual extent of services to be provided will be determined solely by the specific project provided by the interested Government Unit and not EPP.
- 2.1.5** No individual, or firm, is assured of obtaining any work as a result of the pre-qualification.
- 2.1.6** The roles, responsibilities, and requirements of the ESCO will be outlined in any guidelines that EPP from time to time might deem necessary to issue.
- 2.1.7** EPP may, from time to time, issue additional RFQs in order to provide ESCO services and modify the list of pre-qualified ESCOs at its sole discretion.
- 2.1.8** Respondents will be required to certify that no officer, agent or employee of the Government of Puerto Rico has a monetary interest in the SOQ or has participated in contract negotiations on behalf of the Government of Puerto Rico, in accordance with Act 2 of January 4, 2018, as amended, and Act 237 of August, 31, 2004, as amended; that the SOQ is made in good faith without fraud, collusion, or connection of any kind with any other proposer; and that the proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- 2.1.9** A qualification will not be made to any firm or individual to perform work with the Government of Puerto Rico until evidence is submitted that the firm or individual has been qualified by the Department of State to do business in Puerto Rico.

2.2 Submittal Instructions

- 2.2.1** All submittals shall become the property of EPP and will not be returned.
- 2.2.2** Submittals received after January 16, 2023 at 4:30 pm, will not be evaluated.

- 2.2.3** EPP reserves the right to reject, partially or completely, any or all statements of qualifications on the basis of being unresponsive to these guidelines or for failure to disclose requested information.
- 2.2.4** EPP shall not be liable for any costs incurred by respondents in the preparation of submittals and statements of qualifications nor in costs related to any element of the selection and contract negotiation process.

2.2.5 Pre-statement of Qualifications Conference

A Pre-statement of Qualification Conference will be held at 10:00 am on - December 14, 2022- please register at:

https://teams.microsoft.com/registration/aoFY8ZXELUOrLuyHyYcn-g,83683D07bku7NwsOniEN2w,GClso0KgOEiks0kef5BvwA,uPxiHlv-9kKScMYqANiODw,Ba0X1J1AEE2LQx-qcCXs0Q,zFCM8DD58k6RerZ_0iJrAA?mode=read&tenantId=f158816a-c495-432d-ab2e-ec87c98727fa&webinarRing=gcc

The purpose of the Pre-statement of Qualification Conference will be to review the requirements of this RFQ and answer questions from ESCOs in attendance. Attendance by ESCO representatives at the Pre- statement of Qualifications Conference is not mandatory for submission of a response to this RFQ.

All companies interested in participating on this RFQ must register using the following email: espc@ddec.pr.gov. The following information must be provided:

1. First name*
2. Last name*
3. Email*
4. Job Title*
5. Organization*
6. Phone number*

* This fields are mandatory

2.2.6 Communications Regarding This RFQ

Questions and requests for clarification on this Request for Qualifications must be submitted **by email** only at: espc@ddec.pr.gov, following the instructions posted in the Notice. No verbal inquiries will be addressed, nor email sent to other addresses not specified in the Notice.

Communication with other government officials, the selection committee, or others associated with the ESPC Program in connection to this qualifications process is

prohibited during the selection process. Failure to adhere to this requirement may be deemed to be grounds for rejection of a submittal.

2.2.7 Withdrawals of Statement of Qualification

A SOQ may be withdrawn at any time prior to the time specified as the closing time for acceptance of SOQs. However, no SOQ shall be withdrawn or canceled for a period of thirty (30) days after the closing time for acceptance of SOQs nor shall the successful provider withdraw or cancel or modify their SOQ, except at the request of EPP after having been notified that the SOQ has been accepted.

2.3 Submittal Format

2.3.1 Prepare responses to the items in the ESCO's Response to this Request for Qualifications in electronic format. Follow the same sequence and state each number and question prior to your response.

2.3.2 Submit *Request For Qualification Cover Sheet* and submit one electronic copy of the submittals, if possible. Each copy shall include only two files in a read-only file format. The Response shall be converted in entirety to a single read-only formatted file.

2.3.3 Deliver statements of qualifications to:

In person to:
Carlos R. Tejera Hernandez
Energy Policy Program Director
Ave Roosevelt 355, Oficina 205, San Juan

Submittal Schedule

The following schedule has been established for this Request for Qualifications. Note that this schedule is subject to change.

	TASK	DATE/TIME
1.	RFQ Published	<i>December 5, 2022</i>

2.	Pre-Statement of Qualifications Conference	<i>December 14, 2022</i>
3.	Prospective Offeror(s)' written inquiries	<i>Until January 16, 2023 4:30 pm</i>
4.	Responses to Inquiries	<i>Until February 29, 2023 4:30 pm</i>
5.	Statement of Qualification Submission	<i>Until January 16, 2023 4:30 pm</i>
6.	Interviews (if required)	Up to 30 days after the due date for RFQ submissions.
7.	Statement of Qualification Review Period	Up to 60 days after the due date for RFQ submissions.
8.	Qualification Notices	<i>No later than March 30, 2023 4:30 pm</i>
9.	End of Jurisdictional Term for Administrative Review	<i>20 days after Qualification Notices</i>

2.4 Selection Process

2.4.1 Pre-Qualification

A Selection Committee will be appointed by EPP, for which it may rely on specialized advisers, consultants, and/or subject-matter experts that will review and score statements of qualifications as well as make final recommendations to EPP. The Committee may schedule interviews with one or more responding companies to procure clarifications as needed.

Organizations may establish capability to provide services under performance contracts with the Government of Puerto Rico by providing the following

information within its response:

1. qualifications, registration and general reputation of the firm and its professionals;
 - a. performance contracting experience and resumes of key individuals expected to work on Puerto Rico projects, including a minimum of one appropriately experienced professional engineer licensed in the Puerto Rico jurisdiction;
 - b. the extent to which the firm specializes in, or has designed and implemented, projects appropriate to the environment in Puerto Rico;
 - c. familiarity with the area and business practices in which the project is located;
2. previous experience working in tropical climate zones or experience with similar to ESPC projects;
3. capability of meeting design schedules;
4. demonstrated financial ability to meet the anticipated contractual obligations;
5. proposed pricing, fees, and mark-up schedules;
6. past experience with energy performance contracting with a minimum of five (5) years operation and completed installation of a minimum of three projects;
 - a. summary information, with client's contact information, on all performance contracting projects during the previous five (5) years;
 - b. summary information, with client's contact information, on selected performance contracts with any customers in a tropical environment during the previous five (5) years;
 - c. summary information, with client's contact information, on any performance contracting projects which resulted in the company providing payment for shortfall against performance guarantees;
7. summary of the history and operation of the business and organization, including volume and type of clients;
8. financial statements of the performance contracting organization and (if applicable) parent company for the previous two (2) years; the financial statements should be submitted with a sworn statement that will certify that the financial statements fairly reflects the economic condition of the company.

2.4.2 Selection for Projects

An ESPC Program participating Government Unit will use a Secondary Selection Process to select among the pre-qualified ESCOs to provide best value to implement a performance an ESPC project at the participant's facilities The secondary ESCO selection process may vary with the procurement procedures and the specific needs applicable to the participating Government Unit and its project.

2.4.3 Acceptance of Statements of Qualifications

EPP will notify the pre-qualified ESCOS within ninety (60) calendar days of the SOQ due date, subject to EPP discretion.

3.0 Scope of Work

3.1 Energy Savings Performance Contract Project Phases

3.1.1 Marketing, Preliminary Project Evaluation and ESCO selection

EPP will actively promote the ESPC Program to potential participants within the Government, using such guidelines that from time to time EPP deems necessary for the effective implementation of the ESPC Program and the pre-qualified list of ESCOs.

When a potential project is identified, the ESCO may also be required to develop initial feasibility studies for potential projects in order to be selected by the Government Unit to develop an Investment Grade Audit.

3.1.2 Investment Grade Audit and Project Development

The ESCO selected by the Government Unit in the secondary selection process will execute an Investment Grade Audit and Project Proposal Contract. This contract will set specific expectations and will provide a detailed process for both the ESCO and the Government Unit. The contract will also define the contract deliverables and will establish the basis for the Energy Savings Performance Contract to follow.

The investment grade audit should identify and evaluate cost-saving measures and define the proposed project scope, cost, savings, and cash-flow over the proposed financing term. A project proposal will present aggregated measures that can be financed through guaranteed savings.

3.1.3 Energy Savings Performance Contract Implementation

Upon satisfactory completion of the Investment Grade Audit, the participating Government Unit will have the option to execute a project specific Energy Savings Performance Contract with the ESCO to implement the recommended project. The Energy Savings Performance Contract will define the final agreed upon scope of work and all its associated costs and mutual responsibilities between the ESCO and the Government Unit as well as improvement measures, the equipment and labor costs associated with them, and all guaranteed energy and maintenance cost savings.

The ESCO will support, if requested, by the participating Government Unit to secure project financing. A separate financing agreement will be

developed including ESCO payment schedules and lender financing terms and schedules.

Upon execution of the Energy Savings Performance Contract, the ESCO proceeds to final design, construction, and commissioning of the improvement measures.

3.1.4 Performance Period

The Energy Savings Performance Contract performance period begins upon construction completion and acceptance by the participating Government Unit. The Energy Savings Performance Contract will include a number of services the ESCO will provide until the end of the contract including but not limited to measurement and verification of savings, the savings guarantee, staff training, and, possibly, contract maintenance services.

4.0 Disclaimers

4.1. The information provided in this RFQ, or any other written or oral information provided by EPP, their offices, consultants or employees in connection with the SOQ, in the selection process is provided for the convenience of the prospective ESCO only. The prospective ESCO shall make their own conclusions as to such information. Oral explanations or instructions from officials, employees or consultant of EPP, the Selection Committee, the Advisor or any final Puerto Rico public agency shall not be considered binding, formal and final on EPP, the Selection Committee or the Advisor. EPP, the Selection Committee, the Advisor and their officers, employees and consultants make no representation as to such information, the accuracy and completeness of such information is not warranted by any of them and none of them shall have any liability in connection with such information or the selection process, all liability of which is expressly waived by the prospective ESCO. In connection with this proposed Project, EPP and the Selection Committee reserve all rights shall be in their sole discretion available to them under applicable local and federal laws, rules and regulations, including, without limitation, with or without cause and with or without notice, the right to:

- 4.1.1.** Modify the procurement process to address applicable local and federal laws and/or the best interests of EPP and the Government of Puerto Rico.
- 4.1.2.** Plan and modify the Project in any manner that they deem necessary. If EPP is unable to negotiate a Base Contract to their satisfaction with an ESCO, they may negotiate with an acceptable

ESCO, terminate the process and pursue other alternatives relating to the Project or exercise such other rights, as the deem appropriate, at PEPP's sole discretion.

- 4.1.3.** Cancel the RFQ process, as applicable, in whole or in part, at any time prior to execution by EPP of an agreement, without incurring any cost obligations or liabilities.
- 4.1.4.** Issue a new RFQ after withdrawal of this RFQ.
- 4.1.5.** Reject any and all submittals and responses received at any time.
- 4.1.6.** Modify all dates set or projected in this RFQ.
- 4.1.7.** Terminate evaluations of responses received at any time.
- 4.1.8.** Exclude any prospective ESCO from submitting any response to the RFQ or SOQ, as the case may be, based on failure to comply with any requirements.
- 4.1.9.** Issue addenda, supplements and/or modifications to this RFQ.
- 4.1.10.** Require additional confirmation form that furnished information in the SOQ by a prospective ESCO; require additional information from any ESCO concerning its responses and require additional evidence of qualifications to perform the work described in this RFQ, if so is desired, but ESCO shall have provided this basic information included in the SOQ Form.
- 4.1.11.** Require a mandatory field visit and inspection to all ESCOs and require a certified acknowledge document.
- 4.1.12.** Seek or obtain data from any source that has potential to improve the understanding and evaluation of the responses to this RFQ.
- 4.1.13.** Add or delete, providing the corresponding preparation time before the SOQ due date, about prospective ESCO responsibilities from the information contained in this RFQ or any subsequent process instruments.
- 4.1.14.** Only for clarifications purposes and after the evaluation process is closed, discuss with any part of the prospective ESCO without being bound by any provisions in its response.
- 4.1.15.** Permit clarifications or supplements to a response to the RFQ, prior to the time of the formal quantities evaluation.
- 4.1.16.** Modify the Project described in the RFQ or its scope.
- 4.1.17.** Incorporate the RFQ or any prospective ESCO's response to the RFQ as part of any formal agreement with the chosen ESCO.
- 4.1.18.** Not issue a Selection Notice of Qualifications after SOQ's evaluation.
- 4.1.19.** Exercise any other right reserved or afforded to EPP and the Selection Committee under the terms of this RFQ.
- 4.1.20.** This RFQ does not commit EPP to enter into an ESPP. EPP and the Government of Puerto Rico assume no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFQ, or in considering or making submission.

4.2. In no event shall EPP be bound by, or be liable for, and obligations with respect to the ESPC until such time (if at all) as a contract, in form and substance satisfactory to EPP, has been executed and authorized by EPP to the extent and authorized by a Government Unit from the Executive or Judicial Branch to the extent set forth therein.

4.3. This RFQ shall be governed by and constructed in accordance with the local and federal laws. Also, the prospective ESCO expressly recognizes that only the courts of Puerto Rico will be the state courts of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing parties may have among them regarding the terms and conditions of this RFQ.

5.0 Confidentiality of Statements of Qualifications

5.1. All SOQs shall become the property of EPP, except for documents or information submitted by prospective ESCOs which are trade secrets, proprietary information or privileged or confidential information of the prospective proponents ESCOs, so identified. Prospective ESCOs are required to provide identification of all the documents submitted and clearly identify those for which confidentiality and publication provisions limitations are requested. They must clearly indicate through the documents for EPP to protect and ensure that documents identified by any prospective ESCOs as "confidential" or "proprietary" will not be subject to disclosure under the RFQ. If a prospective ESCO has special concerns about confidential or proprietary information that it would desire to make available to the EPP Selection Committee or its designees, it shall, prior to filing its SOQ, so indicate to the Selection Committee, at least five (5) days before the SOQ due date, by way of the following means:

5.1.1. Make a written request to the Selection Committee for a meeting to specify and justify proposed confidential or proprietary documents.

5.1.2. Receive written notification from the Selection Committee accepting or rejecting confidentiality requests.

5.2. Failure to take such precautions prior to filing an SOQ may subject confidential or proprietary information for disclosure under the terms and conditions of this RFQ, as per Puerto Rico laws and EPP applicable Procurement Regulations. EPP will endeavor to maintain the confidentiality of any information that a prospective ESCO indicates to be proprietary or a trade secret, or that must otherwise be protected from publication according to law, except as otherwise exempted from such requirements by law, as per

EPP's interpretation, or by a court order. The Selection Committee shall determine whether the requested materials are exempt from disclosure. In the event that the Selection Committee or EPP elects to disclose the requested materials, it will provide, ten (10) calendar days before, the prospective ESCO notice of its intent to disclose. In no event shall the Government of Puerto Rico, PEPP or the Selection Committee be liable to a prospective ESCO for the disclosure if required by law or through a court order, of all or a portion of an SOQ filed with PEPP. If at any time, PEPP and the Selection Committee is required to make public its report regarding the procurement process, it shall contain the information related to the qualification, procurement, selection and negotiation process, and the information contained in the SOQ, except trade secrets, proprietary or privileged information of the prospective ESCO clearly identified as such by the prospective ESCO, or information that must otherwise be protected from publication according to law, unless otherwise ordered by a court order.

- 5.3.** However, EPP cannot guarantee that the claims of confidentiality made by an ESCO in any way will be honored. Due to the nature of this RFQ, some claims of confidentiality cannot be assured. Therefore, its recommended to present the SOQ without any ESCO confidential information.